



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,628	10/17/2003	Vivian Agura	03292.101740.	2587
66569 7590 06/10/2009 FITZPATRICK CELLA (AMEX) 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
SHIN, MIN				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
06/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/688,628

**Applicant(s)**

AGURA ET AL.

**Examiner**

Min Shin

**Art Unit**

3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the Request for Continued Examination filed on 3/17/2009. Claim 6 is canceled and claims 1 and 4 are amended. Thus Claims 1-4 and 7-16 are currently pending and have been considered below.
2. **Examiner's Note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 and 7-16 rejected under 35 U.S.C. 102(e) as being anticipated by Fredregill (US 2005/0144074).

Claim 1:

Fredregill discloses in a computer system that provides user access to a database of items, and provides electronic shopping carts for allowing the users to interactively select and hold transactions for the items from the database, a method that allows the user to redeem loyalty points, comprising:

- a. providing an interface for identifying a transaction for an item (paragraph 015),
- b. collecting the transaction in the user's electronic shopping cart (paragraph 0056),
- c. repeating the steps of identifying and collecting transactions until the user is ready to check out (paragraph 0058);
- d. verifying calculating an amount of loyalty points necessary to complete the collected transactions (paragraph 0058);
- f. calculating an amount of loyalty points that are available in an account for the user in the computer system (Abstract and paragraph 0056);
- g. transferring additional loyalty points to the computer system from another account not in the computer system (paragraph 0041). NOTE: Fredregill discloses transferring points between from account to another. Examiner questions how an account that is *not* in the system can be used to transfer points.

h. verifying that a total amount of the loyalty points that are available in the account for the user in the computer system and the additional loyalty points transferred from the other account not in the computer system meets the amount of points necessary to complete the collected transactions (paragraph 0040 and 0041); and

proceeding to an electronic checkout to complete the collected transactions (paragraph 0058).

Claim 2:

Fredregill discloses method of claim 1 as described above and further discloses wherein the collected transactions comprise independent and dependent transactions (paragraph 0058).

Claim 3:

Fredregill discloses method of claim 1 as described above and further discloses where the collected transactions comprise transactions for non-tangible items and transactions for tangible items (e.g. "electronic shopping cart." paragraph 0056).

Claim 4:

Fredregill discloses in a computer system that provides a user access to a database of items, a method that allows the user to redeem loyalty points, comprising:

providing an interface for accessing specified item items (paragraph 0005);

a. providing an electronic shopping cart for collecting one or more transactions for the specified items (paragraph 0056);

b. verifying calculating an amount of loyalty points necessary to process the collected transactions (paragraph 0058);

c. calculating an amount of loyalty points that are available in an account for the user in the computer system (paragraph 0056);

d. transferring additional loyalty points to the computer system from another account not in the computer system (paragraph 0041);

e. verifying that the amount of loyalty points that are available in the account for the user in the computer system and the additional loyalty points transferred from the other account not in the computer system meets the amount of points necessary to process the collected transactions (paragraph 0040 and 0041); and

f. processing each of the collected transactions (paragraph 0058).

Claim 7:

Fredregill discloses method of claim 4 as described above and further discloses wherein the collected transactions comprise independent and dependent transactions (paragraph 0058).

Claim 8:

Fredregill discloses method of claim 4 as described above and further discloses wherein the collected transactions comprise transactions for non-tangible items and transactions for tangible items (paragraph 0056).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Fredregill (US 2005/0144074).

Claims 9 and 10:

Fredregill discloses method of claims 1 and 4 as described above and further discloses the user may donate (convert) his earned loyalty points to another user, such as a family member, a friend, or to anyone (page 10,

paragraph 0109). Official Notice is taken that it is also old and well known within the marketing arts to allow loyalty members to use their awards to invest in retirement accounts, donate to charities, buy life insurance, or receive cash. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for Fredregill to allow the customer to redeem the loyalty points for any one or more of these services. One would have been motivated to allow the customer to redeem loyalty points for investment, charitable, or bill paying purposes (i.e. convert to cash) in order to give the consumer more redemption options, especially in view of Fredregill disclosure that such a wide variety of redemption programs were known.

### ***Response to Arguments***

7. Applicant's arguments with respect to Claims 1-4 and 7-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Shin whose telephone number is (571) 270-3463. The examiner can normally be reached on Monday-Friday 8:00am-5:00pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Myhre can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MS  
6/3/2009

/James W Myhre/  
Supervisory Patent Examiner, Art Unit 3688